

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ULTRAVISION TECHNOLOGIES, LLC,	)	Case No. 2:19-cv-00291-JRG-RSP
	)	(LEAD CASE)
Plaintiff,	)	
	)	<b><u>JURY TRIAL DEMANDED</u></b>
v.	)	
	)	<div style="background-color: black; width: 150px; height: 1.2em; margin: 0 auto;"></div>
HOLOPHANE EUROPE LIMITED,	)	
ACUITY BRANDS LIGHTING DE	)	
MEXICO S DE RL DE CV, HOLOPHANE	)	
S.A. DE CV and ARIZONA (TIANJIN)	)	
ELECTRONICS PRODUCT TRADE CO.,	)	
LTD.,	)	
	)	
Defendants.	)	

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**PLAINTIFF ULTRAVISION TECHNOLOGIES, LLC'S  
SUR-REPLY IN OPPOSITION TO DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT OF NON-INFRINGEMENT  
OF U.S. PATENT NOS. 8,870,410 AND 8,870,413 (DKT. 129)**

Defendants again advance a baseless claim construction position to manufacture a non-infringement argument regarding the '410 and '413 Patents. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Defendants' Reply now drops that line of attack and argues that "disposed over only one *associated* LED" must mean "disposed over only one LED." (Dkt. 168 ("Reply") at 2-3.) The Court should decline to indulge Defendants' shifting positions and allow the claims to proceed to the jury.

Defendants have repeatedly accused Ultravision of seeking a late claim construction. (Reply at 1; Dkt. 129 at 9.) But it is Defendants who continually ask this Court to alter the claims' language, long after the proper time for claim construction has passed.

Defendants have had Ultravision's infringement contentions since January of 2020. (Dkt. 144, Ex. A and B.) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Despite this notice, Defendants admit that they never sought to construe any portion of the limitations now at issue. (Dkt. 144 at 3; Dkt. 168 at 1.) If Defendants truly believed that "disposed over only one associated LED" meant "disposed over only one LED," they would have sought to construe the claim during claim construction.

Defendants chose not to seek construction. (*Id.*) Presumably, this was because the intrinsic record did not support their proposed construction. As discussed in Ultravision's Opposition, the written description specifically notes that multiple LEDs can be under each lens. (Dkt. 144 at 9 (quoting '410 Patent at 4:65-5:1). *See also* '413 Patent at 5:5-8.) Defendants' Reply, citing the

phrases “each LED” and “that LED” as used in the “only one associated LED” claim 1 of the ’413 Patent, provides no further support. (Reply at 3.) There is no dispute that the phrase “only one associated LED” in the claim refers to a single LED from the plurality of LEDs. (Dkt. 144 at 4-7.) The dispute is whether Defendants’ proposed constructions—to either i) require the plurality of LEDs to include every LED in the product; or ii) to change “only one associated LED” to “only one LED”—are proper. They are not.

As discussed in Ultravision’s Opposition, a reasonable jury could find that the lenses are disposed over “only one associated LED.” (Dkt. 144 at 4-5. *See also id.* at 6-7.) Defendants have provided no reason to take that decision away from the jury.

Accordingly, the Court should deny Defendants’ Motion.

Dated: December 29, 2020

Respectfully submitted

/s/ Alfred R. Fabricant

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**ATTORNEYS FOR PLAINTIFF  
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[REDACTED]

**CERTIFICATE OF SERVICE**

I hereby certify that on December 29, 2020, a true and correct copy of the above and foregoing document has been served by email on all counsel of record.

/s/ Alfred R. Fabricant  
Alfred R. Fabricant